

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

LAURA SMALL, an individual,
KATHRYN YONGE, an individual,
NATAUSHA HANSON, an individual,
KELLY HAY, an individual, KATHERINE
BERGMAN-CHAPMAN, an individual,
and PEGGY SCHULTZ, an individual,

Plaintiffs,

v.

OREGON HEALTH AND SCIENCE
UNIVERSITY, an independent public
corporation,

Defendant.

HERNÁNDEZ, District Judge:

Magistrate Judge Russo issued a Findings and Recommendation on April 12, 2024, in which she recommends that the Court grant Defendant's Motion to Dismiss. F&R, ECF 24. The matter is now before the Court pursuant to [28 U.S.C. § 636\(b\)\(1\)\(B\)](#) and [Federal Rule of Civil Procedure 72\(b\)](#).

Because no objections to the Magistrate Judge’s Findings and Recommendation were timely filed, the Court is relieved of its obligation to review the record *de novo*. *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc); *see also United States v. Bernhardt*, 840 F.2d 1441, 1444 (9th Cir. 1988) (*de novo* review required only for portions of Magistrate Judge’s report to which objections have been made). Having reviewed the legal principles *de novo*, the Court adopts the Findings and Recommendation, with one exception.

The Court adopts Judge Russo’s recommendation to dismiss the Title VII religious discrimination claims as asserted by Plaintiffs Small, Yonge, Hanson, and Schultz because these Plaintiffs fail to identify any religious tenet or teaching that conflicts with Defendant’s vaccination policy. They simply state that taking the vaccine conflicts with their strongly or deeply held Christian or religious beliefs without explaining which beliefs are the source of the conflict. Compl. ¶¶ 7, 12, 17, 28. Courts generally agree that a general allegation of religious conflict without identifying a conflicting belief is insufficient to survive a motion to dismiss. *E.g., Stephens v. Legacy-GoHealth Urgent Care*, No. 3:23-CV-00206-SB, 2023 WL 7612395, at *6 (D. Or. Oct. 23, 2023) (general allegation that the plaintiff was a “devout Christian” and “did not believe it was consistent with her faith to take the vaccine” insufficient to state a claim), *findings and recommendation adopted sub nom. Stephens v. Legacy Health*, No. 3:23-CV-00206-SB, 2023 WL 7623865 (D. Or. Nov. 14, 2023). The Court dismisses these claims without prejudice.

However, the Court concludes that Plaintiff Hay has stated a claim. Plaintiff Hay alleges that “[s]he believes that God is her creator and that her body is a temple. Taking the vaccine would go against her moral integrity, believing that God created her body to have a substantial immune system, with proper care.” Compl. ¶ 21. This Court aligns with courts that have

concluded that such allegations do state a claim. *E.g.*, *Thompson v. Asante Health Sys.*, No. 1:23-CV-00486-CL, 2023 WL 7348812, at *5 (D. Or. Sept. 21, 2023) (allegation that the plaintiff’s “body is sacred” and that “Buddhist mantras guide me in choosing what is best for me, reinforcing my belief that the vaccine is not suitable for me at this time” sufficient to state a claim), *findings and recommendation adopted*, No. 1:23-CV-00486-CL, 2023 WL 7326496 (D. Or. Nov. 7, 2023); *Camp v. L.A. Arena Co., LLC*, No. EDCV222220JGBKKX, 2023 WL 4680797, at *7 (C.D. Cal. June 15, 2023) (Plaintiff’s allegation that his body is a “temple of the Holy Spirit” and that it was “against his religion to ingest or inject his body with possible harmful substances” sufficient to plead a bona fide religious belief for purposes of a failure to accommodate claim). Plaintiff Hay has met her burden to plead a bona fide religious belief in conflict with an employment duty.

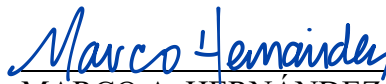
The Court agrees with Judge Russo’s analysis of the hostile work environment claims and therefore dismisses those claims without prejudice.

CONCLUSION

The Court adopts in part Magistrate Judge Russo’s Findings and Recommendation [24]. Accordingly, Defendant’s Motion to Dismiss [6] is GRANTED IN PART AND DENIED IN PART. Plaintiffs may submit a motion to amend the Complaint, attaching a proposed Amended Complaint, within 30 days of this Order.

IT IS SO ORDERED.

DATED: May 14, 2024.


 MARCO A. HERNÁNDEZ
 United States District Judge